

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Christian D. Hofstader, et. al
SERIAL NUMBER: 10/710,910
FILED: August 12, 2004
FOR: Screen Reader Having Concurrent Communication
of Non-Textual Information
CONFIRMATION NO.: 3967
ATTY. DOCKET NO.: 106734.00066

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This is a Brief in reply to the Examiner's Answer mailed March 19, 2008 in the above-identified patent application. It believed that no additional fee is required with this submission. However, should an additional fee be required, the Commissioner is hereby authorized to charge the fee to 50-1667.

Appellants have appealed the non-final rejection of claims 1-24 in the Office Action mailed March 6, 2007. A Notice of Appeal was filed on June 6, 2007. On September 6, 2007, an Appeal Brief was filed. On December 27, 2007, an Amended Appeal Brief was filed. On March 19, 2008, an Examiner's Answer was mailed.

(1) REAL PARTY IN INTEREST

The real party in interest is set forth in the Amended Appeal Brief.

(2) RELATED APPEALS AND INTERFERENCES

The related appeals are set forth in the Amended Appeal Brief.

(3) STATUS OF CLAIMS ON APPEAL.

As set forth in the Amended Appeal Brief, Claims 1-24 have been rejected and are under appeal. No claims have been cancelled. No claims have been withdrawn.

(4) STATUS OF AMENDMENTS

The status of amendments is set forth in the Amended Appeal Brief.

(5) SUMMARY OF THE INVENTION

The summary of the invention is set forth in the Amended Appeal Brief.

(6) ISSUE ON APPEAL

The issue presented on appeal is set forth in the Amended Appeal Brief.

(7) ARGUMENTS

Appellants affirm all of the arguments presented in the Amended Appeal Brief.

(8) REPLY TO THE OFFICE'S RESPONSE TO ARGUMENT

The Office asserts two arguments in response to this appeal.¹ First, the Office argues that Appellant has attacked the references individually to overcome the Office's obviousness rejection. Second, the Office argues that MacKenty does not teach away from a screen reader, but rather is an improvement upon screen readers. Respectfully, Applicants disagree with both of these arguments.

Concerning the Offices' first argument, Applicant's Appeal brief (and Amendments) properly address the references cited by the Office in combination. In fact, as argued at length in Applicant's Amended Appeal Brief, none of the references cited by the Office, alone or in combination, contain each of the claimed limitations of the independent claims currently before the Board.

The primary reference relied upon by the Office is Raman. As the Office concedes, "Raman does not explicitly teach the reader module to be a screen reader module."² The Office attempts to overcome this deficiency by combining Raman with MacKenty.³ But as explained at length in Applicants Amendments and Amended Appeal Brief, MacKenty teaches away from such a combination. Contrary to the Office's argument, Applicants have not individually argued against these (or other references). Rather, combining Raman and MacKentry simply does not provide the claimed limitation whereby the reader module is a screen reader.

As previously briefed, MacKentry expressly teaches against such a combination. The Office individually pulls out the word "reader" from MacKentry's disclosure and relies upon that to support the "screen reader" limitation of the pending claims of

¹ Examiner's Answer Brief, page 10.

² Examiner's Answer Brief, page 4; Office Action dated March 6, 2007, page 2, paragraph 4.

³ See e.g. Examiner's Answer Brief, page 4; Office Action dated March 6, 2007, page 2, paragraph 4.

Applicants' invention.⁴ But MacKentry continuously explains that the reader envisioned therein is a different type of reader – namely a reader that reads an entire **document** as opposed to a **screen**. *See e.g.* MacKentry at col. 4, lines 59-62 ("After an HTML **document** is obtained and parsed by the parser **12**, the reader **14** access the tree data structure in order to sonify the page of HTML data that the tree data structure represents.") (emphasis added).⁵ The Office's reliance on MacKentry does not provide the needed limitation of a screen reader, alone or in combination with any other cited reference. Therefore, the Board should reverse the Office's rejection.

Concerning the Office's second argument in its Answer, the Office states "MacKentry clearly teaches a screen reader."⁶ The Office then cites to various provisions of MacKentry's disclosure that discuss a "reader."

"It is ... a legal principle that when the prior art teaches away from *combining* elements, discovery of a successful means of combining them is more likely to be nonobvious." *Ex parte Takuya Ikeda and Maki Kamikubo*, 2008 WL 838787 at *2 (citing *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 1739 (2007)) (emphasis added). Notably, while the Office claims Applicants have attempted to individually attack references, the Office seems to have succumb to precisely such a deficiency. Namely, the Office overlooks the **express** teachings of MacKentry which explain that MacKentry is **not** a screen reader. Where the reference at issues says it is not designed for the type of invention claimed herein by the Applicants, "discovery of a successful means of combining [the references] is more likely to be nonobvious." *Id.* MacKentry directs

⁴ *See e.g.* Examiner's Answer Brief, page 4; Office Action dated March 6, 2007, page 2, paragraph 4.

⁵ Cited by the Examiner at Examiner's Answer Brief, page 4.

⁶ Examiner's Answer Brief at page 10.

artisans away from screen readers. As such, it can not provide, alone or in combination with the other cited references, the claimed limitation of a "screen reader" herein.

(9) SUMMARY AND CONCLUSION

For the foregoing reasons and those in the Amended Appeal Brief, Appellants submit that claims 1-24 are patentable.

Dated: May 19, 2008

Respectfully submitted,

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